

TWENTY-NINTH JUDICIAL DISTRICT COURT  
PARISH OF ST. CHARLES  
STATE OF LOUISIANA

NUMBER: 71,723-D

DIVISION:

MARGIE E. RICHARD AND BRENDA S. LEWIS

VERSUS

DOW CHEMICAL COMPANY

**DIV. D**  
JUDGE  
M. LAUREN LEMMON

FILE FOR RECORD  
CLERK OF COURT  
ST. CHARLES PARISH, LA  
2010 JUL -2 PM 4:19  
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*[Signature]*

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CLASS ACTION PETITION

The petition of Margie E. Richard and Brenda S. Lewis, both persons of the full age of majority and residents of the Parish of St. Charles, State of Louisiana, who states as following:

I.

Petitioners bring this class action on their own behalf and on behalf of those similarly situated pursuant to article 591, et seq. of the Louisiana Code of Civil Procedure.

II.

Made defendants herein are the Dow Chemical Company, a Louisiana company authorized to do and doing business in the State of Louisiana, Parish of St. Charles, at all times material hereto;

III.

On Tuesday, July 7, 2009, there was a release of Ethyl Acrylate from the Dow Chemical Company facility in Taft, St. Charles Parish, State of Louisiana which occurred due to the fault of defendant, Dow Chemical Company. Petitioners and other putative class members were harmed by that release.

IV.

It is alleged that the defendant, Dow Chemical Company caused the release of the toxic, noxious and harmful Ethyl Acrylate on Tuesday, July 7, 2009. The incident caused damages to petitioner themselves and to those similarly situated.

V.

At all times material hereto, Dow Chemical Company, had control and garde of the instruments and equipment that caused the leak. Upon information and belief the release was caused by a crack which developed in a tank at the Down Chemical facility.

**EXHIBIT**

VI.

The defendants knew or should have known that their equipment and tank were defective and faulty and that the substance they released was harmful and would cause damages to the plaintiffs and other similarly situated.

VII.

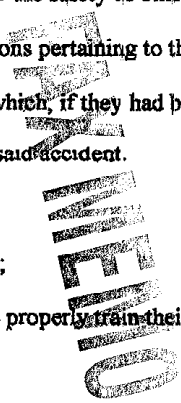
Upon information and belief, petitioners allege that the substance released by Dow Chemical Company on Tuesday, July 7, 2009, was hazardous and harmful to both people and property.

VIII.

Upon information and belief, plaintiffs allege that this incident and the resulting damages suffered by petitioners were caused by the negligence and fault of the defendant, Dow Chemical Company, in the particulars shown below.

AS TO DOW CHEMICAL COMPANY

- a. In releasing a hazardous and harmful substance to the atmosphere where they knew or should have known members of the public would come into contact with it;
- b. In failing to properly handle and contain the hazardous and harmful substance which they were dealing with;
- c. In allowing to exist a hazardous situation consisting of faulty and insufficient procedures and work practices;
- d. In failing to properly warn petitioners to keep away from the substance;
- e. In failing to properly inspect their equipment and plant facility to assure that the equipment and personnel they utilized were fit for their intended purpose;
- f. In acting in a careless and negligent manner without due regard for the safety of others;
- g. In failing to promulgate, implement and enforce rules and regulations pertaining to the safe operation of the tasks being conducted at the time of the accident which, if they had been so promulgated, implemented and enforced, would have averted the said accident.
- h. Inadequate and negligent training and hiring;
- i. Failing to take appropriate action to avoid or mitigate the accident;
- j. In employing untrained or poorly trained employees and failing to properly train their employees;
- k. Failure to recognize and/or to properly react to incident;
- l. Failure to timely warn;



- m. Failure to timely bring situation under control;
- n. Such other acts of negligence as will be shown at the trial of this matter.

All of which were in contravention of the laws of the State of Louisiana and the ordinances of the Parish of St. Charles, which are pleaded herein as if copied in extensor.

IX.

The damages to petitioners were also caused by or aggravated by the fact that defendants failed to properly respond to the incident and take necessary actions to mitigate the danger to the surrounding community and/or to timely and adequately warn the public of the application of the substance.

X.

In addition to the negligence stated above, and in the alternative thereto, the injuries and damages suffered by petitioners were caused by acts or omissions of the defendants, which acts or omissions may be beyond proof by the petitioners herein, but which were within the knowledge and control of the defendant, there being no other possible conclusion that that the incident resulted from the negligence of the defendant. Furthermore, the incident would not have occurred had the defendant exercised the high degree of care imposed on them and petitioner therefore plead the doctrine of re ipsa loquitur.

XI.

As a result of the exposure to the substance caused by defendant, petitioners suffered injuries, symptoms and damages. Petitioners have suffered or may suffer medical expenses and have suffered and/or will suffer lost wages or loss of earning capacity.

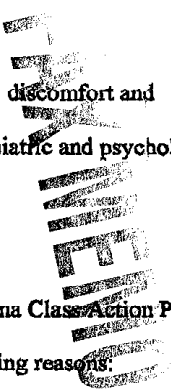
XII.

All of the above considerations caused petitioners fear, anguish, discomfort and inconvenience as well pain and suffering, emotional distress, and psychiatric and psychological damages, evacuation, and property damages.

XIII.

This action is appropriate for determination through the Louisiana Class Action Procedure (Louisiana Code of Civil Procedure Article 591, et seq.), for the following reasons:

1. The large number of potential claimants presents a level of numerosity appropriately handled through the class action procedure as opposed to a mass joinder of individual claims;



5. After due proceedings are had that there be judgment in this matter in favor of the petitioners and against the defendants declaring that said defendants are liable, to the petitioners for compensatory damages in an amount to be determined by this honorable court together with all interest thereon from the date of judicial demand, all costs of these proceedings and any and all other just and equitable relief as deemed necessary and proper by this Honorable Court;

Respectfully Submitted By:



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**PLEASE SERVE:**

THE DOWN CHEMICAL COMPANY  
through its agent for service of process  
C.T. Corporation System  
5615 Corporate Blvd., Suite 4000B  
Baton Rouge, LA 70808

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